



Statement of the U.S. Chamber of Commerce

ON: THE SMALL BUSINESS PAPERWORK AMNESTY ACT

**TO: THE HOUSE COMMITTEE ON GOVERNMENT
REFORM, SUBCOMMITTEE ON REGULATORY
AFFAIRS**

DATE: SEPTEMBER 26, 2006

The Chamber's mission is to advance human progress through an economic,
political and social system based on individual freedom,
incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance -- is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 105 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

**Statement on
The Small Business Paperwork Amnesty Act of 2006
Hearing before the
THE HOUSE COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEE ON REGULATORY AFFAIRS
on behalf of the
U.S. CHAMBER OF COMMERCE
by
James Wordsworth
President, J.R.'s Goodtimes, Inc.
McLean, Virginia
September 26, 2006**

Good morning Chairwoman Miller and distinguished members of the Subcommittee. Thank you for asking me to testify before you today. I commend you for your efforts in having this important hearing to explore waiving minor first time paperwork violations for small businesses where the violation does not present a danger to the public health or safety.

I am Jim Wordsworth, President of J.R.'s Goodtimes, Inc. and the owner of several small businesses. I am here to speak with you today on behalf of the U.S. Chamber of Commerce. The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region. More than 96 percent of the Chamber's members are small

businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

I have been a member of the Chamber since 1990 and serve as the chair of its Council on Small Business and as the chair of its Labor Relations Committee. I was elected to its Board of Directors in June of 2001.

Small business has been a common thread throughout my entire life. I grew up in North Carolina where I worked in a number of small businesses owned by my father, mother, grandfather, and uncles. I moved to the Washington, DC area in 1970 to work as a large computer system's account manager for Burroughs Corporation.

In 1974, while working with Burroughs, I took my life savings and a small business loan and opened J.R.'s Steak House of Virginia, a small 130-seat fine dining restaurant. As the Steak House proved successful, in 1978, I opened J.R.'s Stockyards Inn, a 250-seat fine dining restaurant in Tysons Corner, Virginia, and resigned from my twelve-year career with Burroughs. Since that time, I have opened a number of other small businesses including two corporate picnic facilities in McLean and Leesburg, Virginia, an off-premise catering company, a marina in Stafford County, Virginia, and a company that designs and builds modular prisons. Along the way, I have also served as general partner in several small limited partnerships that acquired raw land, then planned,

zoned, and developed subdivisions featuring amenities such as golf courses and waterfronts.

Any one of these diverse business endeavors comes with its own particular set of rules, regulations, and paperwork requirements specific to the industry and, I might add, that some paperwork requirements are necessary to protect public well being. In fact, we could not do business without disclosures that protect the integrity of transactions for all parties.

Nevertheless, government agencies impose mounds of paperwork requirements on business for a variety of reasons. In some cases, government imposes paperwork as a window into how I operate my business in order to collect data, such as in the case of the Census Bureau. In other cases, the government generates paperwork as a prerequisite for me to obtain or maintain a license to do something that is essential to the profitability of my business, such as the renewal of my liquor license. Agencies like the IRS use reporting in order to determine the amount I need to pay the federal government.

There are several characteristics universal to the paperwork burdens imposed by government agencies that I would like to point out to you here today. First, is the sheer volume of paperwork requirements that government requests of businesses and individuals. I hold in my hand a 266 page document that lists the 5960 forms and instructions generated by 109 bureaus and departments of 49 agencies – and that's just within the federal government, it does not include state and local government agency

forms¹. If I were to print all of the forms and instructions out, the stack of paper would exceed the height of the tallest person in this room. Now I am not here to testify that I am required to fill out all of these forms, but I am here to say that the list that applies to only me gets longer every year.

In its 2002 draft report to Congress on the “Cost and Benefits of Regulations,” the Office of Management and Budget (OMB) reported that all agency regulations imposed over 7.65 billion hours of paperwork on business in fiscal year 2001.² As of the end of fiscal year 2005, just four years later, OMB reports that the Federal Government imposed an annual paperwork burden on the public of about 8.4 billion hours.³ This represents an increase of 441 million hours, or 5.5 percent, over the previous year and an increase of 750 million hours over FY 2001.

The second point that I want to make is when government agencies estimate the time it takes to fill out the paperwork, they almost never take into account the time it takes to collect, organize, and retrieve the information that they ask for. I am rarely capable of filling out a form in the time that they have estimated under the Paperwork Reduction Act (PRA).⁴ The Internal Revenue Service recently went through a rigorous review of their methodology in estimating the paperwork burdens, taking into account the productivity increases of using computers and software programs, as well as the time and

¹ www.forms.gov – the U.S. Government's official hub for federal forms.

² Office of Management and Budget, *March 18, 2002 Draft Report to Congress On the Costs and Benefits of Federal Regulation*, Appendix C, page 114, <http://www.whitehouse.gov/omb/inforeg/8stevensdraftmemoMarch18.pdf>.

³ Office of Management and Budget, *Information and Collection Budget of the United States Government Fiscal Year 2006*, Page 1, http://www.whitehouse.gov/omb/inforeg/icb/fy2006_icb_report.pdf

burden of collecting and organizing the data.⁵ Aggregating the burden for all individual forms and schedules using the new methodology resulted in a net increase of 250 million burden hours to taxpayers between 2003 and 2004. This adjustment increase reflects a new estimate of the previously analyzed burden, not an actual change in burden imposed on taxpayers.

The third characteristic that most forms have in common is that there is generally a penalty associated with filling them out incorrectly – and in many cases the penalty applies whether the mistake is intentional or not. In some cases, the mistakes lead to civil penalties. While other cases, where the public health and safety could be jeopardized, the penalty may be criminal in nature.

Although I try to fill out every form in a timely manner with due diligence and care, as a small business owner, my primary concern is running my business and keeping my customers happy. There is only so much time I can dedicate to filling out forms for the government. Having provisions passed into law, such as those contained in H.R. 5242, the “Small Business Paperwork Amnesty Act of 2006”, that provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business owners like myself, would act as a failsafe in case I make an inadvertent error when filling out a form. As the need for more and more information by government agencies grows, common sense safeguards should be put in place to soften the burdens

⁴ USC Title 44.

⁵ Office of Management and Budget, Information and Collection Budget of the United States Government Fiscal Year 2006, Page 17-20,
http://www.whitehouse.gov/omb/inforeg/icb/fy2006_icb_report.pdf

for those attempting to fulfill the required paperwork demands. Anytime you can remove the anxiety of being penalized for making a minor error, small business owners can focus more of their energy on doing what we do best – creating jobs and growing the economy.

H.R. 5242, if enacted, is just such an effort and is strongly supported by the U.S. Chamber of Commerce. This bill amends section 3506 of title 44 of the U.S. Code⁶ to mandate that the head of an agency shall not impose a civil fine for first-time minor paperwork violations regarding the collection of information by the agency. H.R. 5242 contains adequate protections to avoid excusing fines for violations that can present a danger to the public health or safety, or cause serious harm to the public interest. The bill also exempts violations of the internal revenue law or a law concerning the assessment or collection of any tax, debt, revenue, or receipt.

I would like to highlight just a few examples of how this bill, if enacted into law, could affect my business. The Census Bureau has a number of forms that are sent to businesses for the collection of data in order to distill the results into valuable statistical information used for a variety of purposes. Just recently, my wife and I were in an unfortunate accident that required a lengthy rehabilitation. During this time away from my business, if one of my employees' inadvertently misplaced or disposed of a Census survey request for data not realizing the importance of the document, or attempted to fill it out and did not fill it out completely or correctly to the best of their knowledge, my company could be fined up to \$500 under title 13, section 224 of the U.S. Code. This section states that:

“Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge, of any company, business, institution, establishment, religious body, or organization of any nature whatsoever, neglects or refuses, when requested by the Secretary or other authorized officer or employee of the Department of Commerce or bureau or agency thereof, to answer completely and correctly to the best of his knowledge all questions relating to his company, business, institution, establishment, religious body, or other organization, or to records or statistics in his official custody, contained on any census or other schedule or questionnaire prepared and submitted to him under the authority of this title, shall be fined not more than \$500; and if he willfully gives a false answer to any such question, he shall be fined not more than \$10,000.”

I have very capable managers and assistants that work for me at my restaurant. But their expertise is in running a restaurant and not filling out forms. Additionally, during my wife’s and my convalescence the management had to do extra duty to make up for our absence. It could be very understandable and foreseeable under those circumstances that this type of request could fall through the cracks. Adequate safe harbors contained in this bill would provide me and other business owners with the cushion needed to avoid an expensive fine during a very difficult time.

Another example where the bills provisions may apply is in filling out I-9 forms. Under current law, first time immigration paperwork violations for failure to properly prepare and file I-9 forms can result in civil penalties from \$100 to \$1,000 for “each individual with respect to whom such violation occurred” with due consideration for size of their business and good faith mistakes.⁷ The paperwork violations include failure to properly examine the documents, improperly completing the I-9 form, and failure to keep

⁶ Commonly known as the Paperwork Reduction Act (PRA).

⁷ Employer Information Bulletin 111, (page 2), Failure to Comply with Form I-9 Requirements, dated 3/16/05 entitled: Employer Sanctions, Office of Business Liaison, U.S. Department of Homeland Security, Citizenship and Immigration Services at [http:// www.uscis.gov](http://www.uscis.gov).

the form for the statutorily mandated time period. These are minor non-health and safety paperwork regulations all restaurant owners are subject to. Implementing the provisions of H.R. 5242 would again be justified to insulate myself and others from first-time, inadvertent errors in the filling out and maintenance of these forms.

The concept of waiving penalties for minor paperwork violations for small businesses is not something new. Contained in Public Law 104-121 is a section known as the “Small Business Regulatory Enforcement Fairness Act of 1995.” Section 223⁸ of this act requires agencies to establish a policy or program to provide for the reduction and under appropriate circumstances for the waiver of civil penalties for violations by small businesses. This section excludes violations that pose serious health, safety, or environmental threats as well as other conditions similar to the Small Business Paperwork Amnesty Act. Passage of H.R. 5242 would incrementally extend existing law to apply what agencies already should be doing for all paperwork violations to first-time minor paperwork violations, something that from my point of view would seem logical, very helpful, and consistent with the current intent of Congress under present law.

⁸ **SEC. 223. RIGHTS OF SMALL ENTITIES IN ENFORCEMENT ACTIONS**

(a) **IN GENERAL.**—Each agency regulating the activities of small entities shall establish a policy or program within 1 year of enactment of this section to provide for the reduction, and under appropriate circumstances for the waiver, of civil penalties for violations of a statutory or regulatory requirement by a small entity. Under appropriate circumstances, an agency may consider ability to pay in determining penalty assessments on small entities.

(b) **CONDITIONS AND EXCLUSIONS.**—Subject to the requirements or limitations of other statutes, policies or programs established under this section shall contain conditions or exclusions which may include, but shall not be limited to—

- (1) requiring the small entity to correct the violation within a reasonable correction period;
- (2) limiting the applicability to violations discovered through participation by the small entity in a compliance assistance or audit program operated or supported by the agency or a State;
- (3) excluding small entities that have been subject to multiple enforcement actions by the agency;
- (4) excluding violations involving willful or criminal conduct;
- (5) excluding violations that pose serious health, safety or environmental threats; and
- (6) requiring a good faith effort to comply with the law.

In closing, I would like to again thank the committee for holding this hearing and its interest in the “Small Business Paperwork Amnesty Act.” I welcome any questions.